



## Senate

General Assembly

**File No. 436**

February Session, 2008

Substitute Senate Bill No. 671

*Senate, April 3, 2008*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### ***AN ACT CONCERNING IDENTITY THEFT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2008*) Any department, board,  
2       commission, institution or other agency of the state or any political  
3       subdivision of the state that requests an individual to disclose such  
4       individual's Social Security number shall inform such individual: (1)  
5       Whether such disclosure is mandatory or voluntary, (2) by what  
6       statutory or other authority such number is requested, and (3) what  
7       uses will be made of such number.

8       Sec. 2. (NEW) (*Effective October 1, 2008*) Any person, entity, agency  
9       of the state or political subdivision of the state that loses custody of a  
10      record containing an individual's Social Security number or that causes  
11      the disclosure of an individual's Social Security number, unless such  
12      disclosure is authorized by the individual or required by law, shall (1)  
13      provide written notification of the loss or disclosure to the individual  
14      not later than seven business days after discovering the loss or  
15      disclosure, (2) provide the individual, at the individual's option, not

16 less than two years of commercially available identity theft monitoring  
17 and protection at the cost of the person, entity, agency of the state or  
18 political subdivision of the state, and (3) upon the request of the  
19 individual, enroll the individual in such identity theft monitoring and  
20 protection or assist such individual in enrolling in such identity theft  
21 monitoring and protection.

22 Sec. 3. Section 52-571h of the general statutes is repealed and the  
23 following is substituted in lieu thereof (*Effective October 1, 2008*):

24 (a) Any person aggrieved by an act constituting a violation of  
25 section 53a-129a of the general statutes, revision of 1958, revised to  
26 January 1, 2003, or section 53a-129b, 53a-129c or 53a-129d may bring a  
27 civil action in the Superior Court for damages against the person who  
28 committed the violation.

29 (b) Any individual aggrieved by the negligent, reckless or  
30 intentional disclosure of personal identifying information, as defined  
31 in section 53a-129a, by any person, entity, agency of the state or  
32 political subdivision of the state may bring a civil action in the  
33 Superior Court for damages against such person, entity, agency of the  
34 state or political subdivision of the state unless such disclosure was  
35 authorized by the individual or required by law. The individual shall  
36 have the burden of proving by a preponderance of the evidence that  
37 the disclosure by the person, entity, agency of the state or political  
38 subdivision of the state caused the damages alleged by the individual.

39 [(b)] (c) In any civil action brought under this section in which the  
40 plaintiff prevails, the court shall award the greater of one thousand  
41 dollars or treble damages, together with costs and a reasonable  
42 attorney's fee.

43 [(c)] (d) No action under this section shall be brought but within two  
44 years from the date when the violation is discovered or in the exercise  
45 of reasonable care should have been discovered.

|   |  |  |
|---|--|--|
| This act shall take effect as follows and shall amend the following sections: |  |  |
|---|--|--|

|           |                        |             |
|-----------|------------------------|-------------|
| Section 1 | <i>October 1, 2008</i> | New section |
| Sec. 2    | <i>October 1, 2008</i> | New section |
| Sec. 3    | <i>October 1, 2008</i> | 52-571h     |

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

| Agency Affected        | Fund-Effect          | FY 09 \$  | FY 10 \$  |
|------------------------|----------------------|-----------|-----------|
| Various State Agencies | Various Funds - Cost | Potential | Potential |

**Municipal Impact:**

| Municipalities     | Effect               | FY 09 \$  | FY 10 \$  |
|--------------------|----------------------|-----------|-----------|
| All Municipalities | STATE MANDATE - Cost | Potential | Potential |

**Explanation**

The bill results in a potential cost to any state agency or municipality that loses or causes the unauthorized disclosure of a person's Social Security number as the entity would be required to provide two years of expense paid commercially available identity theft monitoring protection to aggrieved parties. Commercially available identity theft monitoring costs approximately \$180 per year.

**The Out Years**

The fiscal impact identified above would continue into the future.

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**OLR Bill Analysis****sSB 671*****AN ACT CONCERNING IDENTITY THEFT.*****SUMMARY:**

This bill:

1. requires government entities to make certain disclosures when requesting Social Security numbers;
2. requires people, businesses, and government entities that lose or cause the unauthorized disclosure of a person's Social Security number to notify him or her and pay for identity theft monitoring protection if requested; and
3. permits anyone harmed by an unauthorized disclosure to bring a civil action for damages.

EFFECTIVE DATE: October 1, 2008

**REQUESTS FOR SOCIAL SECURITY NUMBERS**

The bill requires state government entities that request Social Security numbers to tell the people being asked (1) if the disclosure is mandatory or voluntary, (2) the legal authority for the request, and (3) how the numbers will be used. The requirement applies to state departments, boards, commissions, institutions, and other agencies, and political subdivisions.

**LOST OR ILLEGALLY DISCLOSED SOCIAL SECURITY NUMBERS*****Notice and Identity Theft Protection***

The bill requires any person, entity, state agency, or political subdivision that loses or causes the unauthorized disclosure of a

person's Social Security number to (1) notify the number's owner of the loss or disclosure within seven days after discovering it, (2) give the owner the option of at least two years of expense-paid commercially available identity theft monitoring protection, and (3) enroll or help to enroll anyone who asks in identity theft monitoring and protection.

### ***Action for Damages***

The bill permits anyone aggrieved by the unauthorized disclosure of personal identifying information to bring a civil action for damages in Superior Court. "Personal identifying information" means any name, number, or other information that may be used, alone or with any other information, to identify a specific individual. This information includes a person's:

1. name or date of birth;
2. mother's maiden name;
3. Social Security, employer or taxpayer identification, employee identification, alien registration, government passport, driver's license, health insurance identification, demand deposit, savings account, or debit or credit card number; or
4. unique biometric data, such as a fingerprint, voice print, retina or iris image, or other unique physical representation.

The person must prove by a preponderance of the evidence that the disclosure caused the alleged damages. Like victims of identity theft, a person aggrieved by an unauthorized disclosure must bring the action within two years after the date the disclosure is discovered or reasonably should have been discovered. Courts must award prevailing plaintiffs the greater of \$1,000 or treble damages plus costs and reasonable attorney's fees.

### **BACKGROUND**

#### ***Identity Theft Crimes***

Under state law, it is a crime to steal someone's identity or traffic in identity theft. The penalties range from up to five years in prison, a \$5,000 fine, or both to up to up to 20 years in prison, \$15,000, or both, depending on the value of the money, credit, goods, property, or services involved.

***Federal Privacy Act***

Federal law requires federal agencies that maintain records and request information from individuals to tell them the agency's authority for requesting it, how the information will be used, and if the disclosure is mandatory or voluntary (5 USC § 552a (e)).

***Related Bills***

The General Law Committee favorably reported three bills related to identity theft:

sSB 30 broadens the definition of "identity theft" as it is used under the state's penal code; allows identity theft victims to sue for damages traffickers in personal identifying information; requires, rather than allows, courts to issue orders to correct public records whenever a person is convicted of identity theft; prohibits employers from disclosing their employees' Social Security numbers without consent; makes the illegal proceeds of identity theft crimes subject to forfeiture; requires financial institutions to take steps to protect against identity theft; and creates an account to reimburse people hurt by the dissemination of their personal identifying information.

sHB 5658 prohibits people, businesses, and other organizations, other than the state and its political subdivisions, from requesting Social Security numbers as a condition of leasing, purchasing, or receiving products, goods, or services.

sHB 5760 makes a state agency, person, or business that loses or discloses an individual's personal identifying information responsible for identify theft monitoring and protection costs and any other costs or fees if the individual's identity is stolen.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea     42     Nay   0     (03/17/2008)